

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

COMPLETE ENTERTAINMENT  
RESOURCES, LLC,

No. C 13-3342 SI

**ORDER RE: DEFAULT JUDGMENT**

Plaintiff,

v.

CINDER BLOCK, LLC,

Defendant.

On December 9, 2013, Magistrate Judge Spero issued a report and recommendation (the "Report") in this case. Docket No. 16. The Report recommends granting in part and denying in part plaintiff's motion for default judgment, and recommends awarding plaintiff \$418,094.47 in compensatory damages. *Id.* at 9. The Report recommends denying plaintiff its costs of suit because it had not produced any evidence showing the costs it had incurred, and it recommends denying plaintiff punitive damages. *Id.*

Although defendant was served with the complaint and summons, Docket No. 5; *see also* Docket No. 11-1, Schiffer Decl. Ex. D, defendant failed to answer or otherwise respond. After the Clerk of the Court entered default, plaintiff moved for default judgment. Docket Nos. 9, 11. Defendant did not file any response to the motion.

The Report issued on December 9, 2013. Docket No. 16. Pursuant to 28 U.S.C. § 636(b)(1), the parties had fourteen days from service of the Report to file written objections. *See also* Fed. R. Civ. P. 72(b). The case was reassigned to the undersigned judge on December 11, 2013. Docket No. 18.

1 Neither party filed objections to the Report by the appropriate deadline.

2 The Court has reviewed the Report and the docket in this case. The Court agrees with Judge  
3 Spero's analysis except that the Court will award plaintiff its costs. On December 31, 2013, plaintiff  
4 filed a declaration providing evidence in support of its request for costs and a request for prejudgment  
5 interest. Docket No. 21. Although the declaration was filed after the deadline for filing objections to  
6 the Report, the Court will award plaintiff the requested \$848.78 in costs pursuant to Federal Rule of  
7 Civil Procedure 54(d)(1) as the prevailing party in this action.<sup>1</sup> However, the Court declines to award  
8 plaintiff prejudgment interest. Plaintiff did not request prejudgment interest in its complaint or in its  
9 motion for default judgment. *See* Docket No. 1; Docket No. 11. Therefore, the Court denies plaintiff's  
10 request for prejudgment interest. *See* Fed. R. Civ. P. 54(c) ("A default judgment must not differ in kind  
11 from, or exceed in amount, what is demanded in the pleadings."); *Landstar Ranger, Inc. v. Parth*  
12 *Enters.*, 725 F. Supp. 2d 916, 923-24 (C.D. Cal. 2010) (denying plaintiff's request for prejudgment  
13 interest where plaintiff did not allege entitlement to prejudgment interest in the complaint).

14 Accordingly, the Court ADOPTS IN PART the Report and Recommendation and GRANTS IN  
15 PART and DENIES IN PART plaintiff's motion for default judgment. The Court awards plaintiff  
16 \$418,094.47 in compensatory damages and \$848.78 in costs.

17 This order resolves Docket Nos. 11 and 16.

18  
19 **IT IS SO ORDERED.**

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21 DATED: January 17, 2014

  
SUSAN ILLSTON  
United States District Judge

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27 <sup>1</sup> Plaintiff's request for \$848.78 in costs consists of the \$400.00 filing fee and \$448.78 in service  
28 of process fees.